

VII. MEMORANDUM OF AGREEMENT

Underground Injection Control Program
Memorandum of Agreement

Between

The State of Oklahoma

and

The United States Environmental Protection Agency,

Region 6

I. General

This memorandum of Agreement ("Agreement") establishes policies, responsibilities, and procedures for the State of Oklahoma Underground Injection Control Program for Class II injection wells (State Program) as authorized by Part C Section 1425 of the Safe Drinking Water Act, Pub. L. 93-523 as amended (SDWA or the Act).

This agreement is entered into by the Oklahoma Corporation Commission and signed by Hamp Baker, Chairman, O.C.C. (the State), the State Class II UIC Director Designee, T. A. Minton, Director of Underground Injection Control, O.C.C. (State Director) with the United States Environmental Protection Agency, Region 6 and signed by Frances E. Phillips, Acting EPA Regional Administrator (EPA or Regional Administrator). After it is signed by the State and Regional Administrator, this agreement shall become effective the date the notice of State Program Approval is published in the Federal Register.

This Agreement may be modified upon the initiative of the State or EPA. Modifications must be in writing and must be signed by the Director and the Regional Administrator. Modifications may be made by revision prior to the effective date of this Agreement or after the effective date by consecutively numbered and dated addenda attached to this Agreement.

This Agreement shall remain in effect as long as the State has primary enforcement authority for the State Program.

When the State has a fully approved program, EPA will not take enforcement actions without providing prior notice to the State and otherwise complying with Section 1423 of the SDWA.

The State shall administer the State Program in accordance with the program submission*, the SDWA, and applicable regulations.

* The State Program submission for primary enforcement authority shall include: (1) a letter from the governor requesting program approval, (2) a complete program description, (3) an Attorney General's statement, or independent legal counsel's certification, as appropriate, (4) this Agreement, and (5) copies of all applicable State statutes and regulations.

The Corporation Commission has the statutory authority, available expert personnel and the fiscal capabilities necessary to carry out such a program of regulation of Class II injection wells. The Commission has been designated by Governor George Nigh as the official state jurisdictional agency to implement such program of regulation and thereby affirm the State of Oklahoma's willingness to carry out the program.

EPA shall promptly inform the State of the issuance, content, and meaning of Federal statutes, regulations, guidelines, standards, judicial decisions, policy decisions, directives, and any other factors which might affect the State Program.

The State shall promptly inform EPA of any proposed or pending modifications to laws, regulations, or guidelines, and any judicial decisions or administrative actions which might affect the state Program and the State's authority to administer the program. The State shall promptly inform EPA of any resource allocation changes (for example, personnel, budget, equipment, etc.) which might affect the State's ability to administer the program.

An underground source of drinking water (USDW) for purposes of the State Program under this Agreement shall be defined as an aquifer or portion thereof which supplies water for human consumption, or in which the ground water contains fewer than 10,000 mg/l TDS, and is not an exempted aquifer. An aquifer or portion thereof which would otherwise meet the definition of USDW may be exempted from protection under this program by the Director after public notice and opportunity for public hearing upon approval by the Regional Administrator. An aquifer or portion thereof may be exempted if it does not currently serve as a source of drinking water and it cannot now and will not in the future serve as a source of drinking water because:

- (1) It is mineral, hydrocarbon or geothermal energy producing;
- (2) It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical;
- (3) It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
- (4) It is located over a Class III well mining area subject to subsidence or catastrophic collapse.

Subsequent to program approval, no aquifer may be exempted without opportunity for public hearing and EPA approval.

II. Responsibilities

A. Sharing of Information on Class II Operations.

All information and records obtained or used in the administration of the State Program, including all UIC permit files, shall be available to EPA or its authorized representative upon request without restriction. Any information obtained from the State by EPA which is subject to a claim of confidentiality shall be treated by EPA in accordance with EPA regulations governing confidentiality (40 CFR Part 2).

EPA shall furnish to the State the information in its files which the State needs to implement the State Program, subject to EPA regulations governing confidentiality (40 CFR Part 2) and Federal provisions governing data transfer.

The State shall retain records used in the administration of the program for three years (40 CFR Parts 30 and 35) and all mechanical integrity records for five years. In the event that an enforcement action is pending, all records pertaining to such action shall be retained until such action is resolved and three years thereafter.

B. State Reports on Class II Operations

The State shall submit to the Regional Administrator periodic reports, no more frequently than quarterly, as specified in the annual program grant. Periodic reports, due to EPA no later than 30 days after the end of the period, shall describe work progress by program element.

The State shall submit to EPA an annual program report. This report shall include a detailed description of the State's implementation of its program, suggested program changes, a description of activities by program element, including summaries of monitoring, surveillance and enforcement programs, an estimate of expenditures by program element, an account of all complaints reviewed by the State and action taken, and an updated inventory of active underground injection operations. This report shall be due to EPA no later than 45 days after the end of the federal fiscal year.

The State shall submit all reports in the format requested by EPA.

C. Program Evaluation for Class II Operations

EPA shall conduct an annual evaluation of the State Program using the State reports and requested information to determine State Program consistency with the program submission, the SDWA, the applicable regulations, and applicable guidance and policies. The evaluation will include a review of financial expenditures.

EPA shall submit a draft of the program evaluation to the State for their review and comment within 15 working days after the submission of the annual program report. The State shall have 15 working days to submit comments on the draft evaluation to EPA. EPA shall make recommendations to the State based on the program evaluation. EPA shall prepare the final report and forward it to headquarters.

EPA shall conduct a second evaluation during the year at their discretion.

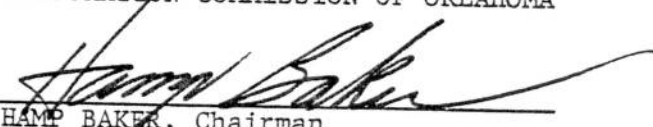
D. Compliance Monitoring and Enforcement for Class II Operations

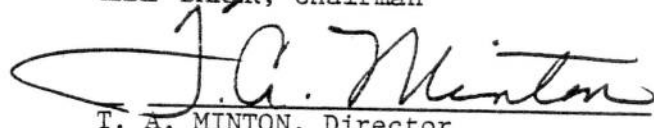
The State shall enforce the State Program in accordance with the enforcement procedures outlined in the program submission. The State shall take timely and appropriate enforcement actions against any persons in violation of any State program requirement. Situations endangering human health will receive immediate and paramount attention.

EPA will provide technical assistance, as available, to the State on compliance, enforcement and emergency response, with the State taking the lead in such actions. However, nothing in this agreement shall restrict EPA's oversight authority.

EPA shall conduct periodic site and activity inspections on Class II injection operations. The Regional Administrator will normally notify the State at least seven days before any such inspection and allow opportunity for the State to accompany EPA on any such inspection.

CORPORATION COMMISSION OF OKLAHOMA


HAMP BAKER, Chairman


T. A. MINTON, Director
Underground Injection Control Dept.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

EPA Regional Administrator (6A)

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file w/

Frank's signature